

UNITED STATES DISTRICT COURT

for the
District of Arizona

9/28/17
DJA
United States of America

v.

Adolfo Abarca-Garcia,

(A 200 292 396)

Defendant

Case No. 17-414MS

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of September 21, 2017, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), an offense described as follows:

Adolfo Abarca-Garcia, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at Nogales, Arizona, on or about February 23, 2016, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1).


I further state that I am a Deportation Officer.

This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated By Reference Herein

CER
REVIEWED BY: Charles E. Bailey, P.S. for Margaret Perlmeter


☒ Continued on the attached sheet.


Complainant's signature

Darrin J. McNeill,
Deportation Officer
Printed name and title

Sworn to before me and signed in my presence.

Date: September 28, 2017


Judge's signature

City and state: Phoenix, Arizona

Michelle H. Burns,
United States Magistrate Judge
Printed name and title

STATEMENT OF PROBABLE CAUSE

I, Darrin J. McNeill, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Deportation Officer with United States Immigration and Customs Enforcement (ICE). I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On September 21, 2017, Adolfo Abarca-Garcia was arrested by the Phoenix Police Department and booked into the Maricopa County Jail (MCJ) on local charges. While incarcerated at MCJ, Abarca-Garcia was examined by ICE Officer B. Placencia who determined Abarca-Garcia to be a citizen of Mexico, illegally present in the United States. On the same date, an immigration detainer was lodged with the county jail. On September 28, 2017, Abarca-Garcia was released from MCJ and transported to the Phoenix ICE office for further investigation and processing. Abarca-Garcia was held in administrative custody until his criminal and immigration records could be obtained and his identity confirmed.
3. Immigration history checks revealed Adolfo Abarca-Garcia to be a citizen of Mexico and a previously deported alien. Abarca-Garcia was removed from the United States to Mexico through Nogales, Arizona, on or about February 23, 2016, pursuant to the

reinstatement of an order of removal issued by an immigration judge. There is no record of Abarca-Garcia in any Department of Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal. Abarca-Garcia's immigration history was matched to him by electronic fingerprint comparison.

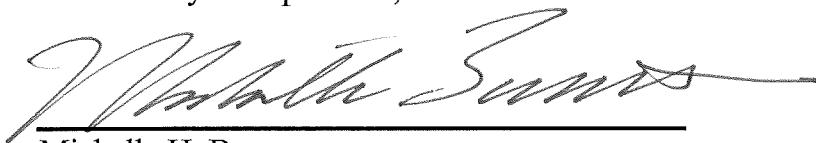
4. Criminal history checks revealed that Adolfo Abarca-Garcia was convicted of Disorderly Conduct, a felony offense, on October 1, 2015, in the Superior Court of Arizona, Maricopa County. Abarca-Garcia was sentenced to a term of two (2) years of probation. Abarca-Garcia's criminal history was matched to him by electronic fingerprint comparison.
5. On September 28, 2017, Adolfo Abarca-Garcia was advised of his constitutional rights. Abarca-Garcia freely and willingly agreed to provide a statement under oath. Abarca-Garcia stated that his true and complete name is Adolfo Abarca-Garcia and that he is a citizen of Mexico. Abarca-Garcia stated that he illegally entered the United States in December of 2016, through Nogales, Arizona. Abarca-Garcia further stated that he had been removed from the United States to Mexico and did not receive permission from the Secretary of the Department of Homeland Security to re-enter the United States after his removal.

6. For these reasons, this affiant submits that there is probable cause to believe that on or about September 21, 2017, Adolfo Abarca-Garcia, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at Nogales, Arizona, on or about February 23, 2016, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1).



Darrin J. McNeill,
Deportation Officer,
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 28th day of September, 2017.



Michelle H. Burns,
United States Magistrate Judge